

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMERICOLD LOGISTICS, LLC
Employer

and

Case 04-RC-134233

TEAMSTERS LOCAL 863
Petitioner

and

TEAMSTERS LOCAL 229
Intervenor

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

¹ We agree with the Regional Director's finding that the Employer has not established that the petitioned-for checkers share an "overwhelming community of interest" with the warehouse persons currently represented by the Intervenor. As the Regional Director explained, the checkers and warehouse persons perform distinct job duties, have separate primary work areas, have several significant wage-related differences, and have minor differences with respect to uniforms, equipment, and paid time off. Significantly, the record supports the Regional Director's finding that the interchange between checkers and warehouse persons is limited. Individual checkers occasionally perform warehouse work, but this amounts to only about 10 hours per month. Of the approximately 244 warehouse persons, only 10-15 warehouse persons perform checker work on a daily basis, and the significance of this overlap is further reduced by the fact that (1) according to General Manager Robert Pavlavsky, the Employer does not usually need to go beyond this group when warehouse persons are needed to do checker work, and (2) although all warehouse persons are "qualified" to perform checker work, they nevertheless must be trained over a period of several days to be able to perform the checkers' work of loading trucks. Finally, the bargaining history concerning employees at this facility strongly supports the Regional Director's analysis. In 2008, the Employer's predecessor voluntarily recognized the Intervenor as the bargaining representative of the warehouse persons. There is no dispute that the checkers have been historically excluded from this unit. The Employer assumed this bargaining relationship and recently rejected a grievance, filed by the Intervenor, seeking to add the checkers to the existing unit of warehouse persons. Although the warehouse person unit at this facility may differ from the Employer's other unionized facilities (at which checkers and warehouse persons are included in the same units), it remains the case that at this facility, the checkers have been historically excluded from the unit of warehouse persons. Under these circumstances, the Regional Director properly found that the community of interest factors do not "overlap almost completely." *Specialty Healthcare and Rehabilitation Center of Mobile*, 357

MARK GASTON PEARCE, CHAIRMAN

LAUREN McFERRAN, MEMBER

Member Miscimarra, dissenting:

Member Miscimarra would grant review of the Regional Director's determination that the petitioned-for unit is appropriate, including whether it is an appropriate residual unit and whether the unit gives controlling weight to the extent of organization contrary to Sec. 9(c)(5), but would apply traditional community of interest standards, and not *Specialty Healthcare*, 357 NLRB No. 83 (2011), enfd. sub nom *Kindred Nursing Centers East LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013) for the reasons stated in *Macy's, Inc.*, 361 NLRB No. 4, slip op. at 22, 31-32 (2014) (Member Miscimarra, dissenting).

PHILIP A. MISCIMARRA, MEMBER

Dated, Washington, D.C., June 16, 2015